IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 8483 of 2002

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.SHAH

==========

1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

PANNABEN RAVJIBHAI PATEL ALIAS PANNABEN J. PATEL

Versus

STATE OF GUJARAT

Appearance:

1. Special Civil Application No. 8483 of 2002

MR HJ NANAVATI for Petitioner No. 1

MR AY KOGJE, AGP, for Respondent No. 1-3

RULE SERVED for Respondent No. 4-5

CORAM : MR.JUSTICE M.S.SHAH

Date of decision: 21/10/2002

ORAL JUDGEMENT

By order dated 27-7-2000 the District Education Officer, Gandhinagar -respondent No.3 herein had directed

respondents No.4 and 5 (hereinafter referred to as `the school management') to absorb the petitioner in service as the petitioner was a surplus teacher. In spite of the said order, respondents No.4 and 5 did not absorb the petitioner in service and did not allow her to resume the duty. The petitioner, therefore, approached the Secondary Education Tribunal and the Tribunal also directed respondents No.4 and 5 to comply with the order of the DEO. In spite of the previous order dated 27-7-2000 of the DEO and the subsequent direction given by the Tribunal, the DEO issued a N.O.C. in favour of respondents No.4 and 5 for permitting them to recruit a teacher from the open market. Respondents No.4 and 5 accordingly issued an advertisement in newspapers for inviting applications for appointment to the post of a teacher. The petitioner, therefore, approached this Court for appropriate directions.

2. After filing of the present petition and the ad-interim order dated 2-9-2002, respondents No.4 and 5 have permitted the petitioner to report for duty and Mr Nanavati for the petitioner states that the petitioner has been absorbed by respondents No.4 and 5 on 29-9-2002.

3. In view of the above, it might appear that nothing further is required to be done. However, there are two aspects which are required to be considered. One is that Mr Nanavati makes a grievance that respondents No.4 and 5 will have to take necessary steps for making entries in the service record so that there is no adverse effect on the continuity of service and the pensionary benefits in future.

Secondly, the grievance is also made that the petitioner has been dragged into unnecessary litigation on account of the aforesaid unreasonable stand on the part of respondents No.4 and 5 in not complying with the order passed by the DEO as far back as on 27-7-2000.

4. In view of the above, this petition is disposed of in terms of the following directions:-

(i) Respondents No.4 and 5 shall continue to employ the petitioner and pay her salary subject of course to the responsibility of the petitioner to render services to the school.

(ii) Respondents No.4 and 5 shall make all necessary entries in the service book of the petitioner in order to ensure that the petitioner gets continuity of service without any break.

(iii) Respondents No. 4 and 5 shall pay the petitioner a sum of Rs.10,000/- by way of costs of this petition and the proceedings before the Tribunal. This amount shall be paid to the petitioner by an account payee cheque in favour of the petitioner by 30th November, 2002.

(iv) In case respondents No.4 and 5 do not pay the aforesaid amount to the petitioner by the aforesaid time limit, the DEO shall deduct the amount payable to respondents No.4 and 5 from the maintenance grant and pay over the said amount to the petitioner by an account payee cheque in favour of the petitioner by 31st December, 2002.

5. The petition is accordingly disposed of in terms of the aforesaid directions.

Rule is made absolute to the aforesaid extent.

(M.S. Shah,J)

zgs/-